

**IN THE
UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

| | | |
|--|---|---------------------------|
| ANTHONY REID, RICARDO NATIVIDAD, | : | |
| MARK NEWTON SPOTZ, RONALD GIBSON, | : | |
| and JERMONT COX, on their own behalf | : | |
| and on behalf of a class of similarly | : | |
| situated persons, | : | |
| | : | CIVIL ACTION NO. |
| <i>Plaintiffs,</i> | : | 18-CV-00176-JEJ |
| v. | : | |
| | : | (Judge John E. Jones III) |
| JOHN E. WETZEL, Secretary of Corrections | : | |
| of the Commonwealth of Pennsylvania, | : | |
| ROBERT D. GILMORE, Superintendent of State | : | |
| Correctional Institution Greene, and | : | |
| TAMMY FERGUSON, Superintendent of State | : | |
| Correctional Institution Graterford, | : | CLASS ACTION |
| | : | |
| <i>Defendants.</i> | : | |

**PLAINTIFFS' UNOPPOSED MOTION FOR CLASS CERTIFICATION
AND APPOINTMENT OF CLASS COUNSEL**

Pursuant to Federal Rule of Civil Procedure 23 and Local Rules 23.1 *et seq.* of this Court, Plaintiffs Anthony Reid, Mark Newton Spotz, Ronald Gibson, Jermont Cox and Ricardo Natividad move for an Order (a) certifying this lawsuit as a class action on behalf of all current and future death-sentenced prisoners in the Commonwealth of Pennsylvania (“the Class”) and (b) appointing the undersigned as Class Counsel. Defendants do not oppose this relief. The Court nonetheless must be satisfied that Rule 23’s requirements are met. *See Amchem Products, Inc.*

v. Windsor, 521 U.S. 591, 619-20 (1997). For the reasons set forth below and in the accompanying memorandum of law, they are.

1. Plaintiffs are five prisoners who have been sentenced to death in the Commonwealth of Pennsylvania. As a matter of policy, based solely on their death sentence, Pennsylvania holds Plaintiffs in permanent, degrading and inhumane solitary confinement until their sentence is overturned or they die by execution or of natural causes. Plaintiffs here sue the Secretary of Pennsylvania's Department of Corrections ("DOC") and the Superintendents of the prisons where they are held under 42 U.S.C. § 1983 and the Eighth and Fourteenth Amendments for injunctive and declaratory relief to end the State's baseless, cruel practices. They sue not just for themselves but for a class of all current and future death-sentenced prisoners in the Commonwealth.

2. Class certification is proper under Federal Rules 23(a), 23(b)(1) and 23(b)(2) and Local Rules 23.1 *et seq.* because:

- (a) The Class members, while readily ascertainable, are so numerous that joinder of all members is impracticable.
- (b) There are questions of law and fact common to the Class.
- (c) The claims of the Plaintiffs are typical of the claims of the Class.

(d) The Plaintiffs will fairly and adequately represent and protect the interests of the Class.

(e) Prosecution of separate actions by individuals would create risks of (i) inconsistent and varying adjudications that would establish incompatible standards of conduct for the Defendants, and (ii) substantially impairing or impeding the ability of other members of the Class to protect their interests. And,

(f) The Defendants have acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole.

3. Proposed Class Counsel meet the criteria set forth in Federal Rule of Civil Procedure 23(g)(1) and will fairly and adequately represent the interests of the Class.

The grounds for this Motion are more fully set forth in the accompanying Memorandum of Law.

WHEREFORE, Plaintiffs respectfully pray that the Court certify this action as a class action on behalf of all current and future death-sentenced prisoners in the Commonwealth of Pennsylvania and appoint the attorneys listed below as counsel for the class.

Dated: March 29, 2018

/s/ Wilson M. Brown, III

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CERTIFICATE OF CONCURRENCE PURSUANT TO LR 7.1

I, Wilson M. Brown, III, hereby certify that counsel for the Defendants was contacted about Defendants' possible concurrence in this Motion, and counsel for Defendants indicated that Defendants concurred with the relief sought herein.

/s/ Wilson M. Brown, III
Wilson M. Brown, III

One of the Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Wilson M. Brown, III, hereby certify that on March 29, 2018, a copy of the foregoing Motion for Class Certification and Appointment of Class Counsel was filed electronically. Notice of this filing will be sent to all parties who have appeared in this action via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Wilson M. Brown, III
Wilson M. Brown, III

One of the Attorneys for Plaintiffs